

1 JOHN DOE (24.5.180.56)

2 IN THE UNITED STATES DISTRICT COURT FOR THE

3 NORTHERN DISTRICT OF CALIFORNIA

4 SAN FRANCISCO DIVISION

5
6 HARD DRIVE

7 PRODUCTIONS, INC.,

Case No. C-11-01566 JCS

8 Plaintiff v.

9 DOES 1-188, Defendants.

10 **MOTION TO QUASH ORDER GRANTING PLAINTIFF'S APPLICATION FOR**
11 **LEAVE TO TAKE DISCOVERY PRIOR TO RULE 26(f) CONFERENCE WITH**
12 **EXTENDED JOINDER DISCUSSION**

13
14 I, John Doe (24.5.180.56), file this motion to quash the order granting HARD DRIVE
15 PRODUCTIONS, INC. application for leave to take discovery prior to rule 26(f) conference
16 with extended joinder discussion. A copy of this motion will be provided to both the Court,
17 my IS Provider, and the Plaintiff. The case against DOES 1-188 is a court-allowed strategic
18 campaign by plaintiff to coerce innocent people to settle out of court for exorbitant amounts to
19 avoid embarrassment due to the association with this company's products (ie pornography).
20 It is a reverse "class action" suit where plaintiff wishes to shoot first and ask questions later,
21 accusing huge numbers of unknown, innocent, and legally unknowledgeable people into
22 litigation, based upon unreliable and limited information, and then "sorting out" the real
23 perpetrators after the fact. This imposes an unfair cost and burden on numerous innocent
24 defendants, a fact plaintiff uses to its advantage, to obtain unscrupulous settlements. To
preserve my good name, I respond as John Doe, and ask that the court prevent plaintiffs from
obtaining exactly what they want: my name and contact information, to allow the harassment
to begin. This case should be dismissed immediately based on the following statements:

1) Improper Joinder of Parties.

The claims against me qualify as a unique case. DOES 1-188 all have completely different
network configurations both at the Internet Service Provider (ISP) and own person home

1 network level. Each individual DOE deserves a right to an individual investigation with
2 individual accusal and defense. Joinder requires that each case share sufficient overlap to be
3 grouped together. In this case, each DOE relies on entirely separate network configurations,
4 computer and network hardware; as a result this case does not qualify. If allowed to proceed,
5 this would be a gross misuse of joinder.

6 2) Unreliability of IP Address Tracing.

7 The Plaintiff claims it has produced software that can reliably trace an IP address to a person.
8 I believe that the plaintiff has perjured themselves with this statement as it is completely false.
9 IP-tracing software has repeatedly been proven to be less than 100% reliable. A study
10 conducted by Microsoft Research stated, *"We show that, even without built-in host identities,*
11 *using IP addresses, anonymized user IDs, and their associated events, we can track a large*
12 *percentage of host activities with high accuracy. Overall, 76% of the events in the application*
13 *log can be attributed to hosts, and 92% of hosts can be tracked correctly. This result is*
14 *consistent across many IP-address ranges [sic], suggesting that tracking host-IP bindings is*
15 *widely applicable."* This report is freely available at the following URL,
16 <http://research.microsoft.com/pubs/80964/sigcomm09.pdf>. This means that significant
17 inaccuracies exist that allow plaintiffs to drag owners of IP addresses into this litigation that
18 have absolutely nothing to do with the alleged wrongful activities, forcing them to incur
19 wasteful time, money, and resources to defend themselves. Plaintiff alleges that the software
20 referenced in their complaint has 100% reliability in IP address tracing. I find it hard to believe
21 that the Plaintiff has a more reliable software solution than Microsoft who spends millions of
22 dollars in research to solve this problem.

23 There is also a separate issue here as well. In the case of someone using an unsecured wireless
24 router, an outside party can access their internet connection. This party can surf the internet,
send email, upload files, or download content. This unknown outside party would have the
same IP Address as anyone on the router itself. Therefore, there is no way to know, reliably
and accurately, who the offending party was.

Many courts across the country have ruled against cases for these exact reasons. These cases
are too numerous to list here. I ask that the Court support these rulings.

A search on Google reveals dozens of software solutions that allow users to "spoof" or
impersonate false IP addresses via a proxy server (intermediary), which are designed to re-
reroute traffic and obscure the source as well as the destination. This completely disproves the
plaintiff's claim (again) that they are able to 100% pinpoint an individual based upon their IP
address.

Common public examples are:

1 <http://www.torproject.org/>
2 http://proxy.org/cgi_proxies.shtml
3 <http://tech-faq.com/proxy>

4 3) Unreliability of MAC Address Tracing.

5 For the subset of IP addresses that the Plaintiff has successfully tracked, one would need the
6 Media Access Control (MAC address) to find the material that the DOES are accused of
7 downloading. The MAC address would be a unique identifier to a device that downloaded the
8 material. Any device with an internet connection has a unique MAC address. This would
9 include routers, hubs, switches, wireless access points, desktops, laptops, smart phones,
10 network attached storage, etc.

11 The issue here is that ISPs typically 'bind' to one MAC address. This MAC address would be
12 associated with what is directly connected to the ISPs' modem, which generates the internet
13 connection. In my particular network configuration, the MAC address that my ISP would
14 report would be my wireless router. This device, unless equipped with a storage device, would
15 have no files on it other than the routing software provided by the original equipment
16 manufacturer (OEM). Once again, the Plaintiff has grossly misrepresented their capabilities of
17 tracing. In my network configuration, I have many devices connected to the router, including
18 potential unknown parties connecting through my wireless connection. Any of these could be
19 associated with the complaint. This proves that the Plaintiff's ability to 100% identify a
20 *person* by their MAC address tracing software is completely false.

21 In addition, there are many solutions (and how-to guides) that are available free and online
22 that allow an individual to impersonate or falsify a MAC addresses (just like IP Addresses).
23 One such example can be found at: <http://hidemymacaddress.com/>. This makes it
24 extraordinarily difficult to pinpoint a specific device where the alleged offense occurred. The
investigation would not know where to look to find the alleged download. This would be
especially true if an unknown party connected to my wireless router and will not connect to it
again. With this uncertainty, the Plaintiff's investigation would be unable to verify who and
where the material was downloaded. As a result, the Plaintiff cannot pledge with certainty that
I am the one who has alleged downloaded their material.

4) Unreliability of Home Network Security

There is no way for the Plaintiff to prove that the DOES in this complaint had a secured home
network during the time of the alleged download. Even in the event that a DOE does have a
secured home network, there are numerous ways to circumvent that security. One main

1 example is WEP security, which is considered the lowest wireless security level, as well as
2 the easiest to crack. One website claims that you have the ability to crack a WEP security key
3 in 60 seconds which can be found here: [http://www.shawnhogan.com/2006/08/how-to-crack-](http://www.shawnhogan.com/2006/08/how-to-crack-128-bit-wireless-networks.html)
4 [128-bit-wireless-networks.html](http://www.shawnhogan.com/2006/08/how-to-crack-128-bit-wireless-networks.html).

5 Another website shows you every single step necessary as well as the appropriate items to buy
6 and the tools to use to make it easier to attack someone's security:
7 <http://lifehacker.com/5305094/how-to-crack-a-wi-fi-networks-wep-password-with-backtrack>

8 Until very recently, I have used WEP security to secure my wireless network. After reading
9 articles like these, I have changed my security to something more robust. However, with that
10 said, there could have been an unknown party who cracked my WEP security and downloaded
11 the alleged material. Unfortunately, I would have no way of tracking back to this event as
12 there are no log files for me to investigate.

13 5) Inability to Pinpoint a Person by IP Address

14 Unfortunately for the Plaintiff, the claim that their ability to Pinpoint a person directly by an
15 IP address is impossible as stated previously. They seem to forget that people share computers
16 within a household. There are several people who use my personal desktop on a regular basis.
17 These people are friends, and family members. Any of these people had the potential of
18 downloading anything they wish. This could have included the alleged content as provided in
19 the complaint.

20 In the event that someone brecched my wireless security, it would be someone who does not
21 reside in my residence. I live in an area where there are many residences close by to my own.
22 I would have no way of knowing who intercepted my wireless signal and used it for their own
23 nefarious purposes. More so, an unknown party could have been on a laptop in a car across
24 the street accessing my wireless network. There would be no way of knowing. As a result, the
Plaintiff has a very difficult job of identifying someone with any certainty. They should not
be allowed to impose monstrous expense and burden on 188 people to DISPROVE their case,
when the foundation of their allegations is so unreliable and superficial. .

6) Improper reference to Copyrighted Material

It's my understanding that in order to copyright an idea, work, etc; it must be filed with and
registered with the US Copyright Office. The formal complaint that I reviewed (which I still
have not received from Mr. Steele) includes no reference to a Copyright Number or official
document stamped from the US Copyright Office.

According to US Copyright law, materials have to be registered at least three months prior to
any infringement in order to pursue statutory damages. As a result, it's unclear if the Plaintiff

1 has any right to pursue this case going forward without official documentation of their
2 copyright.

3 7) Continued Harassment of Defendants after Cases Dismissed

4 Mr. Steele and his organization have a tainted record of ignoring the rulings of courts in
5 numerous states. There have been reports of Mr. Steele and his organization continuing to
6 harass and attempt to extort money out of DOES whose cases was dismissed by the judge.
Below are some examples of people actively being pursued by Mr. Steele and his organization
posted to reddit.com:

7 *edit #5: Got a request to settle from John Steele. I almost lolled because the mac address they*
8 *listed well...it's not my computer, or routers, or any of my roommates. So...talking to a lawyer*
9 *real soon about how this dude is trying to extort money from a college student who couldn't*
10 *pay for his semester of college because of possible legal finances.*

11 *A classmate of mine received one of these notices and he was freaking out but the whole thing*
12 *seems really shady. He contacted the people and the lawyer said that they wanted to take him*
13 *to court for \$250,000 but were willing to settle for \$3,000. Of course they sent him documents*
14 *asking for his bank account and routing number. Of course he doesn't have any money and*
15 *claims he didn't download a movie. (They won't even tell him what movie they claim he*
16 *downloaded) This whole thing seems pretty [expletive deleted] shady to me.*

17 In addition, this does not include people who settled out of court before their case was
18 dismissed. I find it reprehensible that this type of behavior is acceptable in this Country.
19 People are being blackmailed for fear of being exposed as avid watchers of pornography, not
20 to mention exposure of their true sexual orientation in the event that the pornography is
21 homosexual in nature (as some complaints I have online happened to be). I feel that this is a
22 right to privacy issue that the Plaintiff is completely ignoring and using the Courts at his
23 disposable to step on them.

24 8) A quick Google search will show a daunting list of "court-shopping" cases by this
plaintiff's firm, using the same tactics, and involving literally thousands of unknown
defendants dragged into this same scheme. The plaintiff company sometimes changes, but the
nature of the material (ie pornography) and the strategy by this same firm, remains the same.
The great majority of these cases have been dismissed, for a multitude of reasons that apply to
this case, including those noted above. I ask that this court closely scrutinize those prior
cases, to truly appreciate the scope of the judicial abuse involving this plaintiff's firm.
Following are some examples:

1 A: VPR Internationale v. Does 1-1017 - <http://www.scribd.com/doc/54508329/ip-baker>

2 *Among other things Judge Baker cited a recent child porn case where the U.S.*
3 *authorities raided the wrong people, because the real offenders were*
4 *piggybacking on their Wi-Fi connections. Using this example, the judge claims*
5 *that several of the defendants in VPR's case may have nothing to do with the*
6 *alleged offense either.*

7 *"The infringer might be the subscriber, someone in the subscriber's household, a*
8 *visitor with her laptop, a neighbor, or someone parked on the street at any given*
9 *moment," Judge Baker writes.*

10 *Judge Baker further notes that "the embarrassment of public exposure might be*
11 *too great, the legal system too daunting and expensive, for some to ask whether*
12 *the plaintiff VPR has competent evidence to prove its case."*

13 *Baker concludes by saying that his Court is not supporting a "fishing expedition"*
14 *for subscribers' details if there is no evidence that it has jurisdiction over the*
15 *defendants: "Plainly stated, the court is concerned that the expedited ex parte*
16 *discovery is a fishing expedition by means of a perversion of the purpose and*
17 *intent of Fed. R. Civ. P. 23."*

18 B: Patrick Collins vs. Does 1-1219 and On The Cheap vs. Does 1-5011

19 *Midcontinent Communications quashed motion for subpoenas for these DOES.*
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1 C: BMG Music v. Does 1-203 -

2 <http://www.citizen.org/documents/EDPaBMGMusicAmicusMemo.pdf>

3 *Dismissed on following grounds: "Comcast subscriber John Doe 1 could be an*
4 *innocent parent whose internet access was abused by her minor child, while John*
5 *Doe 2 might share a computer with a roommate who infringed Plaintiffs' works.*
John Does 3 through 203 could be thieves, just as Plaintiffs believe, inexcusably
pilfering Plaintiffs' property and depriving them, and their artists, of the royalties
they are rightly owed."

6 D: First Time Videos, LLC vs. Does 1-500

7 *"MINUTE entry before Honorable Ruben Castillo: After a careful review of the*
8 *case docket, the Court hereby dismisses the complaint without prejudice to a*
9 *proper amended complaint which names individual defendants. Plaintiff's*
attorney is cautioned that there must be joint activity by similar defendants to
name said defendants in one lawsuit.

10 *Individual lawsuits against any defendant operating individually would be*
11 *appropriate. Plaintiff's motion for leave to proceed with discovery [5] is granted.*
12 *Plaintiff's counsel is authorized to proceed with expedited discovery to discover*
the identity of the appropriate defendants. Motion hearing set for 10/6/2010 is
vacated "

13
14 E: Following in West Virginia

15 *Order in Combat Zone v. Does 1-1037*

16 *Order in Combat Zone v. Does 1-245*

17 *Order in Patrick Collins v. Does 1-118*

18 *Order in Patrick Collins v. Does 1-281*

19 *Order in Third World Media v. Does 1-1,243*

20 *Order in West Coast Productions v. Does 1-2010*

21 *Order in West Coast Productions v. Does 1-535*

22
23 F: Millenium TGA, Inc. v. Does 1-800,

On March 31, 2011, Judge Blanche M. Manning of the United States District Court for the Northern District of Illinois issued an order cutting short yet another mass copyright infringement lawsuit in which the plaintiff failed to follow the basic rules that govern the proper procedure for suing multiple defendants. The court severed 799 of the 800 defendants from the case entirely, after many of them (including several Booth Sweet LLP clients) fought back with motions to quash.

Last year, in *Millenium TGA, Inc. v. Does 1-800*, Case No. 1:10-cv-05603 (N.D. Ill. filed Sept. 2, 2010), *Millenium TGA* (describing itself as "a pioneering company in the transexual adult entertainment niche") sued 100 unnamed defendants, alleging they had all infringed its copyrights by downloading and sharing files using BitTorrent; they amended the count upward to 800 defendants on November 8, 2010. Judge Manning initially authorized *Millenium* to subpoena various Internet service providers to get the defendants' contact information. But this week, she identified two glaring problems with the lawsuit: *Millenium* had not shown why all 800 defendants belonged in the case together, or why Illinois was the proper venue for the case.

Improper Joinder. Under Federal Rule of Civil Procedure 20(a)(2), a plaintiff can sue more than one defendant in the same case if "(A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and (B) any question of law or fact common to all defendants will arise in the action." But when the plaintiff claims to have been harmed by different defendants in different ways – for example, accusing defendants of downloading different files – the defendants don't have the kind of common relationship that supports joining their claims in the same lawsuit. Judge Manning extensively quoted from cases cited in *Booth Sweet's* motion to quash, agreeing with the reasoning and concluding that the Rule had not been satisfied.

Improper Venue. *Millenium* wasn't just going after defendants in Northern Illinois; most if not all of the defendants live elsewhere. This was brought home to the judge, who emphasized that "potential defendants [were] located all over the country with no discernible ties to this district. Indeed, at least five motions to quash have been filed in this case in the past week." None of those motions, including the one filed by *Booth Sweet LLP*, was for a defendant in Illinois. Judge Manning wondered why the suit was filed there in the first place: "The plaintiff's complaint points to no facts indicating why venue is appropriate in the Northern District of Illinois. The plaintiff is a Hawaii corporation with its principal place of business in California. As far as the plaintiff knows, none of the defendants are located in Illinois...." (Emphasis added.) You know something? We wondered the same thing ourselves.

Unique Case ID	Group	Date Filed	Case Name
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1	10-cv-01682-cand	D. Gill Sperlein / "IO Group-Titan Media", California	23 Apr 2010	IO Group, Inc. v. Does 1-21
2	10-cv-01851-cand	D. Gill Sperlein / "IO Group-Titan Media", California	27 Aug 2010	IO Group, Inc. v. Does 1-19
3	10-cv-04382-cand	D. Gill Sperlein / "IO Group-Titan Media", California	28 Sep 2010	IO Group, Inc. dba Titan Media v. Does 1-435
4	10-cv-00038-dcd	Dunlap, Grubb and Weaver / "US Copyright Group", DC	08 Jan 2010	Worldwide Film Entertainment LLC v. Does 1-749
5	10-cv-00041-dcd	Dunlap, Grubb and Weaver / "US Copyright Group", DC	08 Jan 2010	G2 Productions LLC v. Does 1-83
6	10-cv-00453-dcd	Dunlap, Grubb and Weaver / "US Copyright Group", DC	18 Mar 2010	Achele/Neunte Boll Kino . v. Does 1-4,577
7	10-cv-06481-dcd	Dunlap, Grubb and Weaver / "US Copyright Group", DC	23 Mar 2010	West Day One v. Does 1-2,000
8	10-cv-01407-tund	Evan F. Stone / "Copyright Defense Agency", Texas	17 Jul 2010	Lucas Entertainment Inc. v. Does 1-65
9	10-cv-01537-tund	Evan F. Stone / "Copyright Defense Agency", Texas	09 Aug 2010	Lucas Entertainment Inc. v. Does 1-185
10	10-cv-01702-tund	Evan F. Stone / "Copyright Defense Agency", Texas	27 Aug 2010	VCX Ltd., Inc. v. Does 1-113
11	10-cv-01863-tund	Evan F. Stone / "Copyright Defense Agency", Texas	17 Sep 2010	LFP, Inc. v. Does 1-635
12	10-cv-01900-tund	Evan F. Stone / "Copyright Defense Agency", Texas	21 Sep 2010	Mick Haig Productions, e.K. v. Does 1-670
13	10-cv-02094-tund	Evan F. Stone / "Copyright Defense Agency", Texas	15 Oct 2010	LFP Internet Group, LLC v. Does 1-319
14	10-cv-02095-tund	Evan F. Stone / "Copyright Defense Agency", Texas	17 Oct 2010	LFP Internet Group, LLC v. Does 1-3,120
15	10-cv-02096-tund	Evan F. Stone / "Copyright Defense Agency", Texas	18 Oct 2010	LFP Internet Group, LLC v. Does 1-1,106
16	10-cv-02139-tund	Evan F. Stone / "Copyright Defense Agency", Texas	22 Oct 2010	LFP Internet Group LLC v. Does 1-2,619
17	10-cv-02412-tund	Evan F. Stone / "Copyright Defense Agency", Texas	25 Nov 2010	Harmony Films Ltd. v. Does 1-739
18	10-cv-02605-tund	Evan F. Stone / "Copyright Defense Agency", Texas	21 Dec 2010	Adult Source Media v. Does 1-247
19	11-cv-00001-tund	Evan F. Stone / "Copyright Defense Agency", Texas	02 Jan 2011	D & E Media, LLC v. Does 1-258
20	11-cv-00002-tund	Evan F. Stone / "Copyright Defense Agency", Texas	02 Jan 2011	Serious Bidness, LLC v. Does 1-109
21	11-cv-00056-tund	Evan F. Stone / "Copyright Defense Agency", Texas	10 Jan 2011	Steve Hardeman, LLC v. Does 1-168
22	11-cv-00147-tund	Evan F. Stone / "Copyright Defense Agency", Texas	24 Jan 2011	PUNimation Entertainment v. DOES 1-1,337
23	10-cv-05604-ilnd	John L. Steele / "Media Copyright Group", Illinois	02 Sep 2010	Lightspeed Media Corporation v. Does 1-100
24	10-cv-06255-ilnd	John L. Steele / "Media Copyright Group", Illinois	29 Sep 2010	CP Productions, Inc. v. Does 1-300
	10-cv-00090-wvnd	Kenneth J. Ford / "Adult Copyright Company", W. Virginia	24 Sep 2010	Third World Media, LLC v. Does 1-1,243
	10-cv-00091-wvnd	Kenneth J. Ford / "Adult Copyright Company", W. Virginia	24 Sep 2010	Patrick Collins, Inc. v. Does 1-281
	10-cv-00092-wvnd	Kenneth J. Ford / "Adult Copyright Company", W. Virginia	24 Sep 2010	Patrick Collins, Inc. v. Does 1-118
	10-cv-00093-wvnd	Kenneth J. Ford / "Adult Copyright Company", W. Virginia	24 Sep 2010	West Coast Productions, Inc. v. Does 1-2,010
	10-cv-00094-wvnd	Kenneth J. Ford / "Adult Copyright Company", W. Virginia	24 Sep 2010	West Coast Productions, Inc. v. Does 1-535
	10-cv-00095-wvnd	Kenneth J. Ford / "Adult Copyright Company", W. Virginia	24 Sep 2010	Combat Zone, Inc. v. Does 1-1,037
	10-cv-00096-wvnd	Kenneth J. Ford / "Adult Copyright Company", W. Virginia	24 Sep 2010	Combat Zone, Inc. v. Does 1-245
	10-cv-00112-wvnd	Kenneth J. Ford / "Adult Copyright Company", W. Virginia	29 Oct 2010	Axel Braun Productions v. Does 1-7,098
	10-cv-00114-wvnd	Kenneth J. Ford / "Adult Copyright Company", W. Virginia	04 Nov 2010	West Coast Productions, Inc. v. Does 1-9,729

1
2
3 **Conclusion**

4 In conclusion, I motion to quash the subpoena immediately. I find it absolutely horrifying that
5 the court has allowed this type of behavior to move forward as far as it has. John Steele's firm
6 and his tactics are questionable at best. As I stated previously, I have not to this day received a
7 formal complaint regarding this case. I had to go online and purchase (on a fee basis) a copy
8 of the complaint to understand why I received this notice in the mail in the first place. After I
9 reviewed the complaint, I went onto Google and began searching about Mr. Steele and his
10 organization. I have seen numerous postings about complaints of their behavior and use of
11 intimidation to force a settlement out of honest hardworking Americans. This campaign is
12 absolutely unacceptable. I'm surprised that a lawsuit has not been filed against Mr. Steele for
13 his misuse of the US Court System. I'm surprised that he has not been disbarred. I find it
14 interesting that a Divorce court lawyer is pursuing Copyright Law when he has almost zero
15 experience or knowledge with it at all.

16 My hope is that the court will see through Mr. Steele's firm's abusive practices and see it for
17 what it is: a strategy of coercion, harassment and use of embarrassment of being associated
18 with the porn industry, as a tool to extract money from people, regardless of actual
19 misconduct and regardless of lack of merit of the original case. If this action is allowed to
20 proceed forward, how many thousands, of the countless millions of internet users, of other
21 "defendants" will be dragged into lawsuits such as these, simply to use the same
22 "embarrassment" tactics to extract money from legally unknowledgeable people, "guilty" or
23 not? As stated previously from a fellow DOE, this is a shakedown. My fellow DOE put it
24 quite nicely with the reference to the mob. I do feel as if I'm being forced to pay up or else
my reputation will be tainted with the association with this alleged offense.

For all the reasons outlined previously, I would also ask that the court lecture Mr. Steele and
his organization about wasting taxpayer money, the court's time, my time, and causing
irreparable mental anguish over these baseless claims. I move that the subpoenas for all
DOES including myself be quashed immediately and this case be dismissed.

Dated:

Respectfully,

JOHN DOE (24.5.180.56)

John Doe (24.5.180.56)